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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 BRYCE ANTHONY JACKSON,

11 Plaintiff,

12 v.

13 KATHY RUSSEL,

14 Defendant.

CASE NO. 3:19-CV-05555-RBL-DWC

ORDER TO SHOW CAUSE OR
AMEND

15 Plaintiff Bryce Anthony Jackson, proceeding *pro se*, filed a Complaint pursuant to 42
16 U.S.C. § 1983. *See* Dkt. 1-1.¹ Having reviewed and screened Plaintiff's Complaint under 28
17 U.S.C. § 1915A, the Court declines to serve the Complaint but provides Plaintiff leave to file an
18 amended pleading by September 3rd, 2019, to cure the deficiencies identified herein.

19 In his Complaint, Plaintiff, an inmate at the Multnomah County Inverness Jail, alleges
20 that his constitutional rights were violated when he was incarcerated in the State of Washington.
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23 ¹ Plaintiff also filed a Motion for Leave to Proceed *In Forma Pauperis*. Dkt. 7. However, the Court finds it
24 improbable Plaintiff will be able to cure the deficiencies of his Complaint and therefore will not rule on the request
to proceed *in forma pauperis* until Plaintiff has filed an amended complaint.

1 Dkt. 1, Dkt. 7. Plaintiff alleges that his probation officer falsified a confinement order that
2 resulted in eight months of wrongful imprisonment. Dkt. 1. Plaintiff seeks a declaration that his
3 constitutional rights were violated, as well as compensatory and punitive damages. *Id.*

4 An “action lying at the core of habeas corpus is one that goes directly to the
5 constitutionality of the prisoner’s physical confinement itself and seeks either immediate release
6 from that confinement or the shortening of its duration. With regard to such actions, habeas
7 corpus is now considered the prisoner’s exclusive remedy.” *Preiser v. Rodriguez*, 411 U.S. 475,
8 503 (1973) (internal quotation omitted). “A civil rights action, in contrast, is the proper method
9 of challenging conditions of confinement.” *Badea v. Cox*, 931 F.3d 573, 574 (9th Cir. 1991).

10 Here, Plaintiff filed a civil rights action wherein he challenges his physical confinement,
11 appearing to challenge the legality of his probation officer’s actions with respect to a
12 confinement order that resulted in eight months of additional incarceration. Plaintiff’s requested
13 relief, which challenges the fact of his custody, is properly raised in a § 2254 petition, not a §
14 1983 complaint. Therefore, Plaintiff has failed to state a cognizable § 1983 claim.

15 If Plaintiff intends to pursue this § 1983 civil rights action, he must file an amended
16 complaint on the form provided by the Court, including only claims challenging the conditions
17 of his confinement.² Plaintiff may file a separate § 2254 habeas petition challenging the fact or
18 duration of his custody on the form provided by the Court.

19 The amended § 1983 complaint must contain a short, plain statement telling the Court:
20 (1) the constitutional right Plaintiff believes was violated; (2) the name of the person who

21 _____
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23 ² To the extent Plaintiff is seeking damages for an alleged constitutional violation, the Court may be
24 required to stay his case until his pending criminal charges are resolved. *See Wallace v. Kato*, 549 U.S. 384, 393–94
(2007) (If a plaintiff files a claim related to rulings that will likely be made in a pending or anticipated criminal trial,
“it is within the power of the district court, and in accord with common practice, to stay the civil action until the
criminal case or the likelihood of a criminal case is ended.”).

1 violated the right; (3) exactly what the individual did or failed to do; (4) how the action or
2 inaction of the individual is connected to the violation of Plaintiff's constitutional rights; and (5)
3 what specific injury Plaintiff suffered because of the individual's conduct. *See Rizzo v. Goode*,
4 423 U.S. 362, 371–72, 377 (1976).

5 Plaintiff shall present the amended complaint on the form provided by the Court. The
6 amended complaint must be legibly rewritten or retyped in its entirety, it should be an original
7 and not a copy, it should contain the same case number, and it may not incorporate any part of
8 the original complaint by reference. The amended complaint will act as a complete substitute for
9 the original Complaint, and not as a supplement. The Court will screen the amended complaint to
10 determine whether it contains factual allegations linking each defendant to the alleged violations
11 of Plaintiff's rights. The Court will not authorize service of the amended complaint on any
12 defendant who is not specifically linked to a violation of Plaintiff's rights.

13 If Plaintiff fails to file an amended complaint or fails to adequately address the issues
14 raised herein on or before September 3rd, 2019, the undersigned will recommend dismissal of
15 this action.

16 The Clerk is directed to send Plaintiff the appropriate forms for filing a 42 U.S.C. § 1983
17 civil rights complaint and for service and the forms for filing a petition for habeas corpus relief
18 pursuant to 28 U.S.C. § 2254. The Clerk is further directed to send copies of this Order and Pro
19 Se Instruction Sheet to Plaintiff.

20 Dated this 1st day of August, 2019.

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22 David W. Christel
23 United States Magistrate Judge
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